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OFFICE OF PETITIONS

In re Application of
PANGRAC, et al.
Application No. 09/748,717
Filed: December 22, 2000
Attorney Docket No. **ADVENT001US**

DECISION ON PETITION

This is a decision in response to the petition, filed August 31, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **DISMISSED**.

The application became abandoned for a failure to reply in a timely manner to a final Office action mailed October 31, 2006. A Notice of Abandonment was mailed on July 16, 2007. In response, on August 31, 2007, the present petition was filed.

A grantable petition under 37 CFR 1.137(b)¹ must be accompanied by: (1) the required reply,² unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(III)(C) and (D).

Petitioner has supplied the reply in the form of a notice of appeal, amendment and the petition fee of \$750; however, the petition lacks an adequate statement of unintentional delay.

In this regard, the record indicates that petitioner was not responsible for prosecution of the application when the reply necessary to avoid abandonment was due. Therefore, petitioner must provide a statement from the owner of the invention at the time of abandonment explaining why action was not timely taken to prevent the application from becoming abandoned.

¹ As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

² In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

Petitioner is advised to send a letter (accompanied by a copy of this decision) to ADVENT NETWORKS, INC. at 9600 GREAT HILLS TRAIL, SUITE 300E, AUSTIN, TX 78759, by certified or registered mail (return receipt requested) indicating that the U.S. Patent and Trademark Office (USPTO) is requesting assistance in ascertaining the cause of abandonment of the above-identified application, and that the USPTO is requesting that ADVENT NETWORKS, INC. provide within a specified period (e.g., one month) a statement setting forth why appropriate action was not timely taken to prevent the application from becoming abandoned. Petitioner is advised that, in the event that ADVENT NETWORKS, INC. does not provide such a statement, petitioner should submit a copy of such letter and a copy of the return receipt.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled Renewed Petition under 37 CFR 1.137(b)" as well as the omitted item(s) noted above. This is **not** a final agency action within the meaning of 5 U.S.C. ' 704.

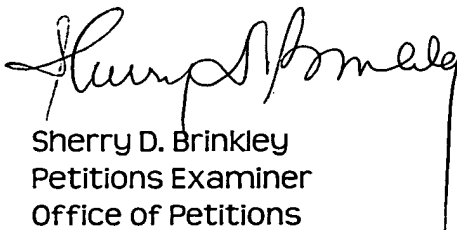
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
 Customer Service Window, Mail Stop PETITION
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Any questions concerning this matter may be directed to Monica A. Graves at (571) 272-7253.



Sherry D. Brinkley
Petitions Examiner
Office of Petitions